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OFFICE OF PETITIONS

In re Application of	:	
Rajaram et al.	:	GRANT OF PETITION
Application No. 09/927,131	:	UNDER 37 CFR 1.78(a)(3)
Filed: August 10, 2001	:	
Attorney Docket No. UTL 00104	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 1, 2004, to accept an unintentionally delayed claim for the benefit of priority based on the applications set forth in the concurrently filed amendment.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on November 26, 2002. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

- (i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
- (ii) The surcharge set forth in § 1.17(t); and
- (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

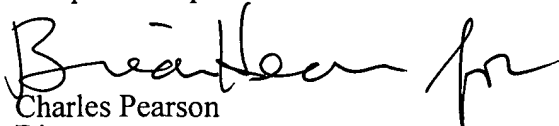
Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3).

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2122 for appropriate action on the amendment submitted June 1, 2004, including consideration by the examiner of the claims for priority. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.**

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

A handwritten signature in black ink, appearing to read "Brantley for", is written over the typed name "Charles Pearson".

Charles Pearson
Director
Office of Petitions

Attached: Corrected Filing Receipt